



**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**FRANCES MLADAN AND  
MILOS MLADAN**

**Complainants**

**VS.**

**WAL-MART STORES TEXAS, LLC**

**Defendant**

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**CIVIL ACTION NO. 1:18-CV-00603-RP**

**JURY TRIAL DEMANDED**

**COMPLAINANT FRANCES MLADAN'S SECOND REQUEST FOR PRODUCTION  
TO DEFENDANT WAL-MART STORES TEXAS, LLC**

TO: Defendant, Wal-Mart Stores Texas, LLC, by and through its attorney of record, Brett H. Payne, Walters Balido & Crain, L.L.P., Great Hills Corporate Center, 9020 North Capital of Texas Highway, Building II, Suite 225, Austin, TX 78759.

You are hereby served with Request for Production pursuant to FED. R. CIV. P. 34. Your responses to the Request for Production are to be preceded by the particular Request for Production to which the response pertains. You are to serve your responses upon Complainant within thirty (30) days after you receive these requests at the following law office:

**BLAKE ERSKINE, JR.  
ERSKINE & BLACKBURN, L.L.P.  
6618 SITIO DEL RIO BLVD., BLDG. C-101  
AUSTIN, TEXAS 78730  
(512) 684-8900 - Telephone  
(512) 684-8920 - Facsimile  
berskine@erskine-blackburn.com**

If you object to answering these interrogatories, or any part thereof, you shall serve your objections upon Complainant Frances Mladan in writing within thirty (30) days from receiving these discovery requests.

You are advised that pursuant FRCP 34 (b)(2), photographic copies of documents responsive to the Request for Production shall be served with Defendant's response, but if they are voluminous, the response must state a reasonable time and place for the production and/or inspection of the documents.

You are further advised that an evasive or incomplete response is to be treated as a failure to respond. You are expected to supplement your responses in accordance with FRCP 26(e)(1). If you fail to respond to these discovery requests as set forth above and in accordance with FRCP 34, Complainants may move for sanctions against you pursuant to FRCP 37(a)(3)(B)(iii).

### **DEFINITIONS**

As used herein, the following terms are defined as follows:

(a) "Complainants" means Frances Mladan and Milos Mladan and all other natural persons or business or legal entities acting or purporting to act for or on their behalf.

(b) "Defendant" means Wal-Mart Stores Texas, LLC, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of Defendant.

(c) "Wal-Mart Store," refers to the Wal-Mart Store #1303 located at 620 S. Interstate 35, in Georgetown, Williamson County, Texas.

(d) "Incident" as that word is used herein means and refers to the November 23, 2016, incident in Wal-Mart Store #1303, wherein Frances Mladan was struck by a row of shopping carts and sustained severe injuries as referred to in Complainants' Original Complaint or any other subsequent amended pleading.

(e) "Action," "suit," or "claim" means the instant litigation brought by Complainants against Defendant Wal-Mart Stores Texas, LLC.

(f) "Person" means any natural person, public or private corporation, partnership, joint venture, association, group, government, or governmental entity (including any governmental agency or political subdivision of any government), and any other form of business or legal organization arrangement.

(g) "Occupation" means a full, accurate and complete description of the nature, type, title and employment carried on by the person inquired about; the name and address of their employer; and, the date(s) such occupation began and terminated.

(h) "Document" means anything which may be considered to be a document or tangible thing within the meaning of Rule 34 of the Federal Rules of Civil Procedure and means

the original, or any copy if the original is not available, of writings and tangible things of every kind and description, and includes, but is not limited to, any drawing, graph, photograph, film, video, phonorecord, report, minutes, transcript, memorandum, notes, jottings, paper, letter, correspondence, communication, invoice, contract, check, check stub, accounting ledger, chart, map, plat, tape, disk, card, wire and any other electronic, magnetic or mechanical recording or transcript of any other instrument or device which contains any information or from which any information can be derived or retrieved. The term "document" also includes copies containing any information in addition to or in any way different from that contained in or on the original, and all attachments, enclosures or documents affixed or referred to in any documents to be described pursuant to these requests.

(i) "Describe" means a detailed statement of all things relating to or affecting the particular subject to be described including, but not limited to, times, dates and places and the names and complete mailing addresses of any persons involved. With reference to documents, communications, and agreements, the term "describe" also includes a detailed statement of the substance of the facts and opinions made reference to or stated in each document, communication or agreement.

(j) "Identify" when referring:

- (1) To a person means to state their age, full name, residential address and phone number, business address and phone number, occupation and employer.
- (2) To a public or private corporation, partnership, association, agency or other entity means to state its name, address, state of incorporation, if applicable, and major purpose or business activity.
- (3) To a statement means to identify the person(s) who made it, took it, recorded it, or received it; the date and location of where it was made; how it was recorded or transcribed and what machines or instruments were used to record or transcribe it, if any; the name(s) and address(es) of any person(s) who was present during the making thereof, or who has personal knowledge that it was made and of its content(s); and, the name(s) and address(es) of any person(s) who presently has possession or last known possession, custody or control thereof.
- (4) To a document means to identify its date, state its general contents, including, if applicable, where, when and how it was made, the name(s) and address(es) of the person(s) who made it, received it, and who has possession or last known possession, custody or control of such document, provided, however, that answers to interrogatories requesting identifications or descriptions of certain communications or documents may be satisfied by attaching a true and correct copy of any written documents, as described herein, containing the requested information; and
- (5) To any other tangible thing means to give a detailed description thereof, including, if applicable, where, when and how it was made, the name(s) and

address(es) of the person(s) who made it, and identify who presently has possession or last known possession, custody and control of such thing.

(k) "Statement" means any written or graphic statements signed or otherwise adopted or approved by the person making it, and any stenographic, mechanical, electrical or other recording or transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(l) The word "any" includes the word "all," and "all" includes the word "any."

(m) The words "and" and "or" shall be both conjunctive and disjunctive.

(n) The words "you" and "your" refer to the Defendant defined in subdivision (b).

(o) "Negligence" means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

(p) "Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

(q) "Proximate cause" means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate of an event.

(r) "Consulting Expert" means any expert who has been informally consulted, retained, or specially employed by you, or by any other Defendant, in anticipation of litigation or preparation for trial or deposition, but who will not be called to testify, whose opinions and/or mental impressions, including any documents, tangible things, test results, factual observations, data, or work product containing such mental impressions and opinions, have been reviewed by a testifying expert.

"Consulting Expert" does not include an expert who has been informally consulted, retained, or specially employed by you in anticipation of litigation or preparation for trial or deposition that will not be called to testify, whose opinions and/or mental impressions have not been reviewed by a testifying expert.



Respectfully submitted,

**ERSKINE & BLACKBURN, L.L.P.**

By: /s/ Blake C. Erskine, Jr.

Blake C. Erskine, Jr.  
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Telephone (512) 684-8900  
Facsimile (512) 684-8920

**ATTORNEYS FOR COMPLAINANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was served by facsimile in accordance with the Federal Rules of Civil Procedure, this 25th day of February 2019, to the following attorney of record:

Brett H. Payne, Esq.  
Walters Balido & Crain, L.L.P.  
Great Hills Corporate Center  
9020 North Capital of Texas Highway  
Building II, Suite 225  
Austin, TX 78759

**ATTORNEY FOR DEFENDANT,  
WAL-MART STORES TEXAS, L.L.C.**

/s/ Blake C. Erskine, Jr.  
BLAKE C. ERSKINE, JR.

**COMPLAINANT FRANCES MLADAN'S SECOND REQUEST FOR PRODUCTION  
TO DEFENDANT WAL-MART STORES TEXAS, LLC**

**REQUEST FOR PRODUCTION NO. 1:** All incident reports prepared by Wal-Mart Texas Stores, LLC or its parent company documenting incidents in Texas from 11/23/2011 to 11/23/2016 where a customer was struck by one or more shopping carts. *Please see the incident reports attached hereto as Exhibit A for an exemplar incident report.*



**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 2:** All customer incident reports prepared by customers of Wal-Mart Texas Stores, LLC or its parent company documenting incidents in Texas from 11/23/2011 to 11/23/2016 where a customer was struck by one or more shopping carts. *Please see the incident reports attached hereto as Exhibit B for an exemplar customer incident report.*

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 3:** All petitions and/or complaints filed against Wal-Mart Stores Texas, LLC in Texas from 11/23/2011 to 11/23/2016 containing allegations that Wal-Mart Stores Texas, LLC and/or its employee, representative or agent injured a customer while moving, restocking, or retrieving a shopping cart or shopping carts.

**RESPONSE:**

	<p>WAL-MART ASSOCIATES - US</p> <p>Store/Location Number : 1303</p> <p>Base Division Number : 01 - WAL-MART ASSOCIATES - US</p> <p>Address : 620 S INTERSTATE 35, GEORGETOWN, TX, 78628</p> <p>Phone : 512 8634855</p> <p>Manager : DONNEL</p> <p>Division Charged : -</p> <p>Section Code : -</p> <p>Accident Related to Store Set-up ? No</p> <p>Store Set-up type : N/A</p> <p>Project Store Number : -</p> <p>Type of Incident : OTHER All other claims that do not fit any other category listed.</p> <p>Date of Incident : 11/23/2016 2:05:00 PM</p> <p>Date facility notified of Incident : 11/23/2016</p> <p>Incident State : TX</p> <p>Was medical treatment sought at time of incident or mentioned by the customer/member ? Yes</p> <p>Did incident happen on premises ? Yes</p> <p>Address where injury occurred : 620 S INTERSTATE 35, GEORGETOWN, TX, 78628</p> <p>Phone : 512 8634855</p> <p>Was there a customer that witnessed the incident ? No</p> <p>Name : BASS, MAIRA</p> <p>Title : COMANAGER</p> <p>Name : MOORE, CARLOS</p> <p>Title : ASSISTANT</p> <p>Name : MOORE, CARLOS</p>	
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Store/Location Number : 1303

Base Division Number : 01 - WAL-MART ASSOCIATES - US

Address : 620 S INTERSTATE 35, GEORGETOWN, TX, 78628

Phone : 512 8634855

Manager : DONNEL

Division Charged : -

Section Code : -

Accident Related to Store Set-up ? No

Store Set-up type : N/A

Project Store Number : -

Type of Incident : OTHER All other claims that do not fit any other category listed.

Date of Incident : 11/23/2016 2:05:00 PM

Date facility notified of Incident : 11/23/2016

Incident State : TX

Was medical treatment sought at time of incident or mentioned by the customer/member ? Yes

Did incident happen on premises ? Yes

Address where injury occurred : 620 S INTERSTATE 35, GEORGETOWN, TX, 78628

Phone : 512 8634855

Was there a customer that witnessed the incident ? No

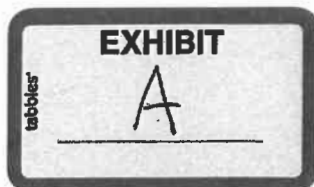
Name : BASS, MAIRA

Title : COMANAGER



Name : MOORE, CARLOS

Title : ASSISTANT

Name : MOORE, CARLOS





	<p style="text-align: center;">WAL-MART ASSOCIATES - US</p> <p>• This report is to be used for the purpose of documenting and collecting evidence related to the incident. It is not to be used for any other purpose. This report is to be used for the purpose of documenting and collecting evidence related to the incident. It is not to be used for any other purpose.</p> <p>• Please print: Name, Address, Phone, Project Store Number, Date of Incident, Date facility notified of incident, Incident State, Was medical treatment sought at time of incident or mentioned by the customer/member?, Did incident happen on premises?, Address where injury occurred, Was there a customer that witnessed the incident?, Name, Title, Name, Title, Name, Title.</p>	
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**Store/Location Number : 1303**  
**Base Division Number : 01 - WAL-MART ASSOCIATES - US**

**Address : 620 S INTERSTATE 35, GEORGETOWN, TX, 78628**  
**Phone : 512 8634855**  
**Manager : DONNEL**  
**Division Charged : —**  
**Section Code : —**  
**Accident Related to Store Set-up ? No**  
**Store Set-up type : N/A**  
**Project Store Number : —**

**Type of Incident : OTHER All other claims that do not fit any other category listed.**

**Date of Incident : 11/23/2016 2:05:00 PM**  
**Date facility notified of incident : 11/23/2016**  
**Incident State : TX**

**Was medical treatment sought at time of incident or mentioned by the customer/member ? Yes**

**Did incident happen on premises ? Yes**  
**Address where injury occurred : 620 S INTERSTATE 35, GEORGETOWN, TX, 78628**  
**Phone : 512 8634855**

**Was there a customer that witnessed the incident ? No**

**Name : BASS, MAIRA**  
**Title : COMANAGER**

**Name : MOORE, CARLOS**  
**Title : ASSISTANT**

**Name : MOORE, CARLOS**

**Summary Information****SUBMIT**

Below is the summary of the items you entered. Please check for accuracy of information before you submit to Home Office. If you need to correct any information, click on the edit page for the section you wish to edit. Use scroll bar to scroll and view all the items. Please remember to take pictures and attach them to the printed summary sheet or incident report before sending to CMI.

**Edit Page****Store/Location number :0000001303****Base division number :01 - WAL-MART ASSOCIATES - US****Edit Page****Address :620 S INTERSTATE 35, GEORGETOWN, TX, 78628****Phone :(512) 863-4855****Manager :DONNEL****Division :1 - Wal-Mart Stores****Section code :99 - N/A****Accident Related to Store Set-up ?No****Store Set-up type :N/A****Project Store Number : -****Edit Page****Type of Incident :NA - OTHER All other claims that do not fit any other category listed.****Edit Page****Date of Incident :11/23/2016 02:05 pm****Date facility notified of Incident :11/23/2016****Incident State :TX****Incident description :CUSTOMER WAS HIT WITH A SHOPPING CART****Door Type : -****Does incident involve BI, PD, or both ?Bodily Injury****Was medical treatment sought at time of incident or mentioned by the customer/member ?Yes****Did incident happen on premises ?Yes****Address where Injury occurred :620 S INTERSTATE 35, GEORGETOWN, TX, 78628****Phone :(512) 863-4855****Was there a customer that witnessed the incident ?No****Name :****Address : - , - , - , -****Phone : -****Name :BASS, MAIRA****Title :COMANAGER****Normal Work Hours : -****Name :MOORE, CARLOS****Title :ASSISTANT**



## Customer Incident Report

Store: 1303 Date/Time of Incident: 12/15 A.M. (P.M.)Legal Name: Francis C. Mladan

Email Address: \_\_\_\_\_

Physical Address: 210 Steeplechase Drive

Mailing Address: \_\_\_\_\_

City: Georgetown State: Texas Zip: 78626Date of Birth: 4-23-44 SSN\*: MT 429-66-5732Contact Phone: (512) 763-6590 Alt Phone: ( ) \_\_\_\_\_

\*SSN is required for an insurance claim. If SSN is not provided at this time, please note that you will be required to provide your SSN if a claim is made for medical payment.

Describe in your own words, the events leading up to the incident:

Coming into the store - searched for a bag of food for my  
and stored into my car - left side

Identify and describe the location of the incident:

Is from up the McDonald store.

List name, address and phone number of any witness(s) to the incident:

Name of associate the incident was reported to and/or other associates in the area:

Carlos Moore

Although Wal-Mart Stores, Inc. regrets any accident that may have occurred on its premises, Wal-Mart Stores, Inc. cannot authorize treatment or guarantee payment or reimbursement of any treatment you may obtain. Medical treatment and the submission of an insurance claim is not a guarantee of medical payment and is not an admission that Wal-Mart Stores, Inc. or any of its subsidiaries or affiliates are legally responsible for any accident.

Customer/Member Signature: Francis C. Mladan Date: 11-23-16Management Signature: [Signature] Date: 11-23-16

A copy of this statement will be made available to you upon request.

31. 11/23/16 10:26:11 AM

